THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No. 17758 of 2007

Dated: 06.10.2007

Between:
M/s. Bellary Steels & Alloys Ltd., rep. by its President Sri S. Sivaram Prasad.

..Petitioner.

and

The Government of A.P., rep. by its Secretary Industries & Commerce (Mines)Department, Secretariat Building, Hyderabad and others.

..Respondents.

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.17758 of 2007

ORDER:

Heard Sri Milind G. Gokhale, the counsel representing the writ petitioner and the learned Government Pleader for Industries.

2. This writ petition is filed for a writ of mandamus declaring that the petitioner company is entitled for the mining lease with respect to the extent of 100 hectares in Sy.No.1 of Antargangamma Konda/Mallammana Konda of H. Siddapur Village, D. Hirehal Mandal, Ananthapur District and consequently declare the Extraordinary Gazette Notification dated 08.10.2004 issued in Ananthapur District Gazette No.2 bearing Registered No.M-543 as arbitrary, illegal and issued in violation of the petitioner's fundamental rights guaranteed under the Constitution of India.

3. Counter affidavit and rejoinder also had been filed.

4. It is stated by the writ petitioner that the applications were filed under Rule 22(i) of the Mineral Concession Rules, 1960 on 14.03.1995. It is also stated that the petitioner company received communication on 08.05.1995 from the Assistant Director of Mines & Geology, Ananthpur calling upon the petitioner company to attend on 29.05.1995 for the purpose of inspection and survey of the said land. It is stated that the petitioner company was informed to submit the original withdrawals for verification, which

were submitted by the petitioner company's communication, dated 22.10.1998. On 21.06.1999, the petitioner company received a communication from the District Forest Officer, Ananthpur stating that the petitioner company's application for mining lease dated 24.12.1997 is under consideration. It is also stated that on 24.12.1997 the petitioner company's application was received by the department and acknowledged the same and the same is still pending as on today.

5. In the counter-affidavit filed by the respondent, several facts had been narrated in detail and it was stated that the writ petition deserves to be dismissed. In para 13 of the counter-affidavit, it is stated that the Government of India, Ministry of Environment and forests have accorded permission for diversion of forest land over an extent of 68.50 Hect in favour of M/s. OMC (P) Ltd., and hence the State Government EFS & T Department vide G.O.Ms.No.7 dt. 10.01.2007 have accorded permission for diversion of forest land. After the receipt of the necessary permissions only, the application of M/s. Obulapuram Mining Company (P) Ltd., was considered for grant of mining lease vide G.O.Ms.No.151 dated 19.06.2007 where as the petitioner company failed to obtain such permissions and deliberately delayed the proceedings. Hence, their proposals were rejected by the divisional Forest Officer vide letter dated 1951/98/DM, dt. 29.11.2004. Even though the application of the petitioner was received prior to the notification which is to be processed as though it was received on the due date of receipt as per the notification along with other applications received during the period specified in the notification and all such applications deemed to have been received on the same day for

the purpose of assigning priority after taking into consideration as per sub-section (3) of Section 11 of Mines & Minerals (D & R) Act, 1957. Accordingly, the application of the petitioner and other pending application of M/S APMDC shall be processed as per Section 11 of M & M. (D & R) Act, 1957.

The area now opted for mining lease by the petitioner company was already recommended to M/s. APMDC Ltd., State Government undertaking and hence no claim of preferential right can be entertained. M/s.S.R.Minerals have also filed mining lease application before the assistant director of Mines and Geology, Anantapur over the subject area on 12.10.2004 and obtained forest clearance vide G.O.Ms.No.114 EFS & T Department dated 26.10.2005 and also filed W.P.No.25370/06 with a request to issue necessary directions to the respondents to grant Mining Lease in their favour in pursuance of the forest clearance given to them. The writ petition is still pending before this Court. Whereas, Andhra Pradesh Mineral development Corporation Ltd., a state public sector undertaking also filed application for this area. Hence, Andhra Pradesh Mineral development Corporation Ltd., being a state public sector undertaking deserves priority. All these applications are kept pending for want of forest clearance. APMDC is seeking cancellation of forest clearance given in favour of S.R.Minerals and accord clearance in its favour. This is pending before forest department.

6. Inasmuch as it is stated that the representation of the petitioner dated 24.12.1997 is said to be pending, the first respondent is directed to consider and dispose of the said representation in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

The Writ Petition is disposed of accordingly. No order as to costs.

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P.S.NARAYANA, J

Dated: 06.10.2007

sj